

## **REMARKS**

Claims 22-93 are pending in the Application and all have been rejected in the Office Action mailed July 3, 2008. Claims 22, 31, 40, 49, 52, 59, 68, 76, 79, 81, and 83 are amended by this response. Claims 22, 40, 52, 68, and 79 are independent claims, from which claims 23-39, 41-51, 53-67, 69-78, and 80-93 depend, respectively. Applicants respectfully request reconsideration of claims 22-93, in light of the following remarks.

### **Amendment to Claims**

Applicants have amended independent claims 22, 40, 52, 68, and 79 to further clarify the subject matter of the claims. Applicants have also amended dependent claims 31, 49, 59, 76, and 81 to be consistent with the amendments to claims 22, 40, 52, 68, and 79. Support for these amendments may be found, for example, at pages 280-282 of the Application. Applicants respectfully submit that these amendments do not add new matter.

Applicants have amended claim 83 to correct a minor claim drafting error. Applicants respectfully submit that these amendments do not add new matter.

### **Rejections of Claims**

Claims 22-24, 29-42, 47-52, 57-69, 74-82, and 87-93 were rejected under 35 U.S.C. §102(e) as being anticipated by Kline et al. (US 6,157,653, hereinafter "Kline"). Claims 25-28, 43-45, 53-56, 70-73, and 83-86 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kline in view of Angle et al. (US 6,366,771, hereinafter "Angle"), and further in view of Trompower (US 6,132,306). Applicants respectfully traverse the rejections. Nevertheless, Applicants have amended claims 22, 31, 40, 49, 52, 59, 68, 76, 79, and 81 as shown and described above, to further clarify the subject matter of the claims. Applicants respectfully submit that these amendments render the rejections of the instant Office action moot.

## **I. Kline Does Not Anticipate Claims 22-24, 29-42, 47-52, 57-69, 74-82, And 87-93**

With regard to the anticipation rejections, MPEP 2131 states, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131 also states, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants first address independent claims 22 and 52. Applicants respectfully submit that claim 22 has been amended to recite, in part, “...wherein the processor stops the processing of queued digital voice data for a predetermined amount of time upon detecting that the group identifier associated with the queued digital voice data is different than the group identifier associated with the last digital voice data processed, the processor continuing processing of queued digital voice data, otherwise.” Applicants respectfully submit that claim 52 has been similarly amended to recite, in part, “...stopping the processing of queued digital voice data for a predetermined amount of time, when a change in group identifier is detected; and continuing processing of queued digital voice data, otherwise.” Applicants respectfully submit that Kline does not teach or suggest at least these features of Applicants’ claims 22 and 52.

The Office states that Kline teaches “...a group identifier [Figs. 2-3 Voice Packet Processor 212 assigns a sequence number and a connection identifier for the voice packet; col. 4, line 57-col. 5, line 4, col. 6, lines 23-29]; ... a processor for detecting a change in the group identifier [Figs. 1-5; Sequence number 306 allows Voice Packet Processor (PVR) 212 in the destination node 108 to detect a change when a packet has been dropped by the network; col. 6, lines 23-39; the processor changing the processing of digital voice data, if a change in group identifier is detected [Figs. 1-5; If at a PVR 212, a sequence number is found missing, it will interpolate the speech to fill in the audio channel for the missing packet. Or, Fig. 5, steps

**505-510, it will discard the packet if the sequence number is invalid; col. 6, lines 23-39];** and the processor continuing prior processing of digital voice data, otherwise **[Fig. 5, steps 515-555].**" (emphasis in original) See Office action at page 3. Applicants respectfully disagree with the interpretation of the teachings of Kline set forth by the Office.

Applicants respectfully maintain that the by these statement, the Office suggests that the "sequence number" of Kline teaches Applicants' claim element "group identifier", as recited in claims 22 and 52. Kline states at column 4, lines 59-60, that "...[e]ach successive voice packet is assigned a successive sequence number...." (emphasis added) Therefore, Applicants respectfully submit that Kline teaches that the "sequence number" of Kline changes with each succeeding packet. That is, the sequence number of each packet sent is different than the sequence number of the packets immediately before it and immediately after it, and that successive received packets will contain different sequence numbers, whether or not a packet is lost or dropped by the network. Therefore, the sequence numbers in successive packets will be different during normal (error free) operation **and** when packets are lost or dropped by the network, or when a sequence number is invalid.

Applicants respectfully submit, however, that there is nothing in Kline that teaches "...wherein the processor stops the processing of queued digital voice data for a predetermined amount of time upon detecting that the group identifier associated with the queued digital voice data is different than the group identifier associated with the last digital voice data processed,...", as recited by amended claim 22. Applicants also respectfully submit that Kline also fails to teach anything about "...**stopping the processing of queued digital voice data for a predetermined amount of time, when a change in group identifier is detected**;...", as recited by amended claim 52.

Applicants respectfully note that M.P.E.P. §2131 makes it clear that Kline can anticipate Applicants' claims 22 and 52 "...**only if each and every element as set forth in the claim** is found, either expressly or inherently described, in a single prior art reference...", and that "[t]he identical invention **must** be shown in as complete detail as

is contained in the ... claim.” Applicants have been unable to find such teachings in Kline. If Applicants have inadvertently overlooked such teachings, Applicants respectfully request that the Office specifically identify the relevant portion(s) of Kline and provide a detailed explanation/interpretation of how and why Kline sets forth Applicants’ claim features.

With regard to dependent claims 31 and 59, Applicants have amended claims 31 and 59 to recite, respectively, in part, “...wherein stopping the processing of digital voice data comprises delaying the conversion of queued digital voice data by an adjustable queuing time...”, and “...wherein stopping the processing of the queued digital voice data comprises delaying for an adjustable queuing time the processing of queued digital voice data.” The Office cites Kline at Figs. 2-6; including Fig. 5 at Steps 515-555; column 5, line 59 to column 6, line 22, and column 6, lines 63-64 as teaching Applicants’ claims 31 and 59.. Applicants have reviewed each of the cited portions of Kline and respectfully submit that Kline does not teach or suggest “...wherein stopping the processing of digital voice data comprises delaying the conversion of queued digital voice data by an adjustable queuing time...”, and “...wherein stopping the processing of the queued digital voice data comprises delaying for an adjustable queuing time the processing of queued digital voice data...”, as recited by Applicants amended claims 31 and 59. Therefore, Applicants respectfully submit that Kline fails to anticipate amended claims 31 and 59, and that amended claims 31 and 59 are allowable over Kline.

With regard to dependent claims 34 and 62, Applicants respectfully maintain that Kline does not teach or suggest, at least, “...wherein the predefined value is approximately 200 milliseconds....” The Office cites Fig. 5 and column 7, lines 9-64 as teaching Applicants’ feature. Applicants have responded to these alleged teachings of Kline in the response filed May 19, 2008, and will not repeat all of those arguments here. Applicants respectfully submit, however, that Kline at Fig. 5 and column 7, lines 9-64 simply explains the adaptive smoothing delay process of Kline. The Office continues to suggest that the text “typically minutes” suggests Applicants’ feature “...wherein the predefined value is approximately 200 milliseconds....” Applicants

respectfully disagree. A careful examination of Kline reveals that the parameter described in decision block 545 of Fig. 5 of Kline, and in the text above, is an amount of time that determines one of two conditions under which the process of Fig. 5 adjusts smoothing, not a period of time during which digital voice data is held in a queue, as in Applicants' claims 34 and 62. Further, Applicants respectfully submit that a value of "...typically minutes..." as recited by cited portions of Kline, is not equivalent to and does not teach "...approximately 200 milliseconds...", as recited by Applicants' claims 34 and 62. Applicants maintain that the cited teaching of Kline differs from Applicants recited feature by a factor of approximately 600. In spite of that fact, **the Office fails to even address Applicants' detailed arguments and to explain how and why two unrelated quantities that differ by nearly three orders of magnitude can be interpreted to be equivalent**. Applicants respectfully request that the Office provide a detailed explanation of how and why Kline is being interpreted as teaching Applicants' feature. In the absence of such clarification justifying such an interpretation, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of anticipation as required by M.P.E.P. §2131, and that claims 34 and 62 are allowable over Kline.

With regard to dependent claims 35 and 63, Applicants respectfully submit that Applicants have previously addressed the alleged teachings of Kline with respect to claims 35 and 63, and will not repeat those arguments here. Applicants respectfully maintain that Kline does not teach or suggest, at least, "...wherein the adjustable queuing time is determined using a test packet sent over the packet network...", as recited by Applicants' claims 35 and 63. In response to Applicants' arguments submitted in the response filed May 19, 2008, the Office states, in part, at page 12 of the Office action mailed July 3, 2008:

Kline discloses that for a specific call (i.e. a specific path through the network) the variable portion of the delay can be assumed to be bounded between 0 and some maximum known value which we will refer to as the maximum cell delay variation, CDV max. The value of CDV max may be a known network wide parameter [col. 7, lines

**9-43].** Since the CDV max can be determined by a known network-wide parameter, it is inherent in Kline that tests using voice data packet across the network must be accomplished in order to obtain CDV for determining the various portion of the delay. Thus, Kline teaches each limitation set forth in claims 35-37 and 63-65.

(emphasis added)

This portion of the response by the Office asserts that the use of a test packet is inherently taught by Kline, but offers no basis for such a conclusory statement. The Office only states that "...tests using voice data packet across the network must be accomplished in order to obtain CDV for determining the various portion of the delay." (emphasis added) Applicants respectfully submit that Kline does not disclose "CDV", but does disclose "CDV\_max", which is described by Kline at column 7, lines 32-40, reproduced below:

For a specific call (i.e. a specific path through the network) the variable portion of the delay, d var(i) can be assumed to be bounded between 0 and some maximum known value which we will refer to as the maximum cell delay variation, CDV\_max. The value of CDV\_max may be either a known network wide parameter, or alternatively, it can be calculated by routing entity 118 on a call by call basis (i.e. known for the specific path chosen by the routing entity at call establishment time)

Thus, Kline teaches that "CDV\_max" is either "...a known network wide parameter" or "...it may be calculated by routing entity 118 on a call by call basis (i.e., known for the specific path chosen by the routing entity at call establishment time)" However, Kline does not explain how "CDV\_max" becomes known. In addition, Applicants respectfully submit that Kline teaches that "CDV\_max" is a variation in delay, which is different from and does not anticipate Applicants' claim feature "propagation delay". Further, Kline does not teach that a "test packet" is used to determine either "CDV\_max" or a "propagation delay".

According to MPEP §2112, Sec. IV, page 2100-54,55, "[t]o establish inherency, the

extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily** present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. **Inherency, however, may not be established by probabilities or possibilities.** The mere fact that a certain thing **may** result from a given set of circumstances **is not sufficient.**'" (emphasis added) The M.P.E.P. also recognizes that "[a]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)." MPEP 2112 (emphasis in original). Based at least upon the above, Applicants respectfully submit that the Office has failed to show where Kline teaches use of a "test packet" in determining "propagation delay", and fails to show why it is inherent in Kline.

Applicants' response filed May 19, 2008 requested that the Office "...specifically identify the element of Kline that teaches Applicants' "test packet", and provide a clear and detailed explanation of how and why the identified element of Kline teaches this aspect of Applicants' claims 35 and 63." See Response filed May 19, 2008 at pages 18-19. The prior Office action (mailed January 18, 2008) did not allege inherency, but only suggested that support could be found somewhere within Figs. 1-6 and column 7, lines 9-64 of Kline, and offered the conclusory statement that "...queuing time can be determined either a known network wide parameter or it can be calculated by specific path, a test path, chosen by the routing entity..." Applicants respectfully submit that if Kline disclosed a "test packet" within Figs. 1-6 or at column 7, lines 9-64 "...in as complete detail as is contained in the ... claim...", as required by M.P.E.P. §2131, then the Office would have certainly cited Kline more specifically than to suggest that the corresponding relevant teaching is somewhere within six (6) figures and virtually a half page of text of Kline.

For at least the reasons set forth above, Applicants respectfully submit that the Office has not established a *prima facie* case of anticipation, has not shown where "...each and every element as set forth in the claim is found, either expressly or

inherently described, in a single prior art reference...”, and has not shown where Kline teaches “[t]he identical invention ... in as complete detail as is contained in the ... claim....” Therefore, Applicants respectfully submit that Kline does not teach or suggest, at least, “...wherein the adjustable queuing time is determined using a test packet sent over the packet network...”, in accordance with Applicants’ claims 35 and 63, and that claims Applicants’ 35 and 63, in their respective contexts, are allowable over Kline.

With regard to dependent claims 36, 37, 64, and 65, Applicants respectfully maintain that the Office has failed to show where Kline teaches or suggests “...wherein the test packet is sent prior to establishment of voice communication...”, as recited by Applicants’ claims 36 and 64; and “...wherein the test packet is interspersed with digital voice data packets...”, as recited by Applicants’ claims 37 and 65.

In response to Applicants’ arguments set forth in the Response filed May 19, 2008, the Office again suggested that support for rejection of claims 36, 37, 64, and 65 could be found somewhere within Figs. 1-6 and column 7, lines 9-64 of Kline, and offered the conclusory statement that “...the test packet is sent prior to establishment of voice communication and the test packet is interspersed with digital voice packets....” Initially, Applicants respectfully submit that, as set forth above, the Office has failed to show where Kline teaches use of a “test packet”. Further, if Kline disclosed such a “test packet” within Figs. 1-6 or at column 7, lines 9-64 “...in as complete detail as is contained in the ... claim...” as required by M.P.E.P. §2131, then the Office would certainly have cited Kline more specifically than to state that the corresponding relevant teaching is somewhere within six (6) figures and virtually a half page of text of Kline. Further, the Office offers no explanation of how and why the cited portions of Kline can be reasonably interpreted to disclose the features of Applicants claims 36, 37, 64, and 65.

Based at least upon the above, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of anticipation to support the assertion that Kline teaches a “test packet”, and that supports the assertion that Kline teaches or suggests



at least "...wherein the test packet is sent prior to establishment of voice communication...", as recited by Applicants' claim 36 and 64, and "...wherein the test packet is interspersed with digital voice data packets...", as recited by Applicants claims 37 and 65. Therefore, Applicants respectfully submit that claims 36, 37, 64, and 65 are allowable over Kline.

With respect to dependent claims 38 and 66, Applicant respectfully submit that claims 38 and 66 recite, in part, "...wherein the group identifier is a pseudo random number." Applicants respectfully submit that Kline does not teach or suggest the subject matter of Applicants' claims 38 and 66. The Office identifies Kline at Fig. 3 and "sequence number 306" as teaching Applicants' "group identifier" and "...wherein the group identifier is a pseudo random number." Applicants are unable to understand, and the Office has failed to explain, how the Office can interpret any of the disclosure of Kline as teaching that the "sequence number 306" of Kline is a "pseudo random number", as recited by Applicants' claims 38 and 66. First, Kline states, at column 4, line 52-60:

FIG. 3 shows packet 300. Packet 300 is a series of bytes. Packet 300 has header 302 and payload 304. Header 302, shown with three bytes, contains information used by nodes 104, 106, 108 to relay packet 300 to its destination. Payload 304, here shown with 44 bytes, contains data and information related to the voice source. Part of payload 304 is sequence number 306. Sequence number 306 is assigned by voice packet processor 212. Each successive voice packet is assigned a **successive** sequence number 306.

(emphasis added)

Kline also discloses, at column 5, lines 5-16:

Packets are transmitted, by voice packet processor 212 at the source edge node 104 at uniformly spaced intervals of  $\Delta T$  time units. Each **successive** sequence number 306 in voice packet 300 represents a change in time of  $\Delta T$  units. Since the packet voice processor 212 at the destination edge node 108 also dequeues packets at uniformly spaced time intervals of  $\Delta T$  time units,

sequence number 306 may be used to determine the relative time that each packet is to be played out (dequeued). Therefore, sequence number 306 serves as a time stamp, indicating the relative playout time of received packets at the PVR, and a sequence number, for detecting packets lost by packet network 100.

And mostly clearly and conspicuously, Kline states, at column 5, lines 17-32:

The dual purpose of the sequence number is true when the voice packet processor includes a voice activity detection mechanism. In this case, the PVT detects the presence or absence of voice (so called talkspurts), and only sends packets when it detects the presence of active speech signals in the audio channel. Thus, the PVT will send packets uniformly space by  $\text{del\_T}$  units of time during a talk spurt, but will not send packets during silence intervals. However, the PVT keeps incrementing the sequence number at the same  $\text{del\_T}$  time increments even during silence intervals when no packets are sent. Thus, when the next talkspurt occurs, the transmitted packets will contain sequence numbers that correspond to the expected relative playout times at the PVR. Thus, the PVR can continue to use the sequence number in the voice packets as a time stamp and a sequence number.

Applicants respectfully submit that the portion of Kline shown above was cited by the Office in the "Response to Arguments" section of the instant Office action, in the response to Applicants' arguments over the prior rejection of claim 40. Therefore, based on the above, Kline teaches that each **successive** "sequence number 306" is assigned to **successive** packets, that each **successive** "sequence number 306" represent a change in time of " $\text{del\_T}$ " units, and that the "sequence number 306" may be used to determine relative time. Kline also teaches that one "sequence number 306" is incremented to form a next "sequence number 306". Applicants respectfully submit that the word "sequence" may be defined as "**8. Mathematics** An ordered set of quantities,...." (emphasis added) See, e.g., The American Heritage Dictionary of the

English Language - New College Edition, Houghton Mifflin Company, Copyright 1979, page 1182. Applicants respectfully submit that the purpose of a "sequence number" as taught by Kline, and as is well-known to those of ordinary skill in the relevant art, is to enable a receiver to detect the loss or dropping of a packet, or to detect packets received out of order. Kline teaches that because the "sequence number 306" is incremented every "del\_T" units of time, the "sequence number 306" may also be used to measure time. Applicants respectfully submit that a sequence number that is a "pseudo random number" makes no technical sense, and that the use of "sequence number 306" as taught by Kline would be incompatible with, and teaches away from the use of a "pseudo random number". As is well-known by those of ordinary skill in the relevant art, "pseudo random numbers" are nearly unpredictable. Kline fails to teach the use of an unpredictable "pseudo random number" to detect "lost" or "dropped" packets, or to determine "relative time". For at least the reasons set forth above, Applicants respectfully submit that the Office has failed to show where Kline teaches Applicants claim feature "...wherein the group identifier is a pseudo random number...", and that Applicants' claims 38 and 66 are allowable over Kline.

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the Office has failed to show where Kline teaches each and every element of Applicants' amended claims 22 and 52, as required by M.P.E.P. §2131, that the Office has failed to establish a *prima facie* case of anticipation, and that amended claims 22 and 52 are allowable over Kline. Applicants respectfully submit that claims 23-39 and 53-67 depend, respectively, from claims 22 and 52, and are therefore allowable as well, for at least the same reasons set forth with respect to the rejections of claims 22 and 52. In addition, Applicants have shown above that the subject matter of claims 31, 34-38, 52, 59, and 63-66 are independently allowable. Accordingly, Applicants respectfully request that the rejection of claims 22-24, 29-39, 52, and 57-67 under 35 U.S.C. §102(e) be reconsidered and withdrawn.

With regard to independent claim 40, Applicants have amended claim 40 to

recite, in part, "...the processor changing the group identifier if a lack of voice activity for at least the predefined period of time is detected; and the processor leaving the group identifier unchanged, otherwise." Applicants respectfully submit that Kline does not teach or suggest at least these features of Applicants' claim 40.

The Office states at pages 5-6, that Kline teaches:

... a group identifier [Figs. 2-3; Voice Packet Processor 212 assigns a sequence number and a connection identifier for the voice packet; col. 4, line 57 - col. 5, line 4, col. 6, lines 23-29]; the processor changing the group identifier if a lack of voice activity for a minimum period of time is detected [Figs. 2-4; Voice Packet Processor detects the presence or silence of voice (so-called talkspurts) and increments the sequence number, i.e. change the identifier, even during silence intervals. When next talkspurt occurs, the transmitted packets will contain the new sequence numbers; col. 5, lines 17-33] and the processor leaving the group identifier unchanged, otherwise [Figs. 2-4; Send packets with sequence numbers when Voice Packet Processor detects the presence of active speech signals; col. 5, lines 17-33].

Applicants respectfully submit that the above statement by the Office suggests that the "sequence number" of Kline teaches Applicants' "group identifier", and alleges that Kline teaches "...Voice Packet Processor detects the presence or silence of voice (so-called talkspurts) and increments the sequence number, i.e. change the identifier, even during silence intervals". Therefore, Kline teaches that the "sequence number 306" is incremented whether or not voice is detected. In other words, and as taught by Kline at column 5, lines 24-27, "...the PVT keeps incrementing the sequence number at the same del\_T time increments even during silence intervals when no packets are sent." Therefore, Applicants respectfully submit that Kline does not teach "...leaving the group identifier unchanged" if "...a lack of voice activity for at least the predefined period of time" is not detected. Because Kline teaches that the "sequence number 306" is incremented on an ongoing basis, "...even during silence intervals...", Applicants

respectfully submit that Kline cannot teach Applicants' amended claim 40, which recites, in part, "...the processor changing the group identifier if a lack of voice activity for at least the predefined period of time is detected; and the processor leaving the group identifier unchanged, otherwise." Therefore, Applicants respectfully submit that Kline fails to teach or suggest each and every element of Applicants' claim 40, as required by M.P.E.P. §2131, and that amended claim 40 is allowable over Kline.

With regard to Applicants' dependent claim 50, Applicants respectfully submit that Kline fails to teach or suggest at least "...wherein the group identifier is a pseudo-random number." Applicants have shown above, with respect to claims 38 and 66, that Kline does not teach or suggest the use of "sequence number" that is a "pseudo random number", as asserted by the Office. Therefore, for at least the reasons set forth above with respect to claims 38 and 66, Applicants respectfully submit that the Office has failed to show where Kline teaches Applicants' claim 50, and that claim 50 is allowable over Kline.

Therefore, Applicants respectfully submit that claim 40 is allowable over Kline, for at least the reasons set forth above. Because claims 41-51 depend either directly or indirectly from amended claim 40, Applicants respectfully submit that claims 41-51 are also allowable over Kline, for at least the same reasons. In addition, Applicants have shown that dependent claim 50 is independently allowable over Kline. Accordingly, Applicants request that the rejection of claims 40-42 and 47-51 under 35 U.S.C. §102(e) be reconsidered and withdrawn.

With regard to independent claim 68, Applicants have amended claim 68 to recited, in part, "monitoring digital voice data to detect a lack of voice activity for at least a predefined period of time;...", "...assigning a different group identifier to the digital voice data upon detecting a lack of voice for at least the predefined period of time; ...", and "...refraining from assigning a different group identifier to the digital voice data, otherwise;..." Applicants respectfully submit that Kline does not teach or suggest at least these features of Applicants' amended claim 68.

The Office states that Kline teaches "...monitoring digital voice data for a lack of voice activity for a minimum period of time [**Figs. 2-4; Voice Packet Processor detects the presence or silence of voice (so-called talkspurts); col. 5, lines 17-20];...**" (emphasis in original) See Office action at page 6. Applicants respectfully submit that there is nothing in Kline at Figs. 2-4 that teaches or suggests, at least, "monitoring digital voice data to detect a lack of voice activity for at least a predefined period of time;...", "...assigning a different group identifier to the digital voice data upon detecting a lack of voice for at least the predefined period of time; ...", and "...refraining from assigning a different group identifier to the digital voice data, otherwise;...", as recited by Applicants' amended claim 68. Applicants respectfully submit that a "Voice Packet Processor" that "...detects the presence or silence of voice (so-called talkspurts)..." is not the same as, nor does it teach or suggest "...detect[ing] a lack of voice activity for at least a predefined period of time;...", as recited by Applicants' amended claim 68. M.P.E.P. §2131 makes it clear that for a reference to anticipate, "[t]he identical invention **must** be shown in as complete detail as is contained in the ... claim." Applicants' now turn to Kline at column 5, lines 17-20, which has been underlined below:

The dual purpose of the sequence number is true when the voice packet processor includes a voice activity detection mechanism. In this case, the PVT detects the presence or absence of voice (so called talkspurts), and only sends packets when it detects the presence of active speech signals in the audio channel. Thus, the PVT will send packets uniformly space by del\_T units of time during a talk spurt, but will not send packets during silence intervals. However, the PVT keeps incrementing the sequence number at the same del\_T time increments even during silence intervals when no packets are sent. Thus, when the next talkspurt occurs, the transmitted packets will contain sequence numbers that correspond to the expected relative payout times at the PVR. Thus, the PVR can continue to use the sequence number in the voice packets as a time stamp and a sequence number.

(emphasis added)

The cited portion of Kline shown above teaches that the "PVT" simply detects the presence or absence of voice, and keeps incrementing the sequence number at the same del\_T time increments, even during silence intervals when no packets are sent. This portion fails to make any mention of "monitoring digital voice data to detect a lack of voice activity for at least a predefined period of time;...", "...assigning a different group identifier to the digital voice data upon detecting a lack of voice for at least the predefined period of time; ...", and "...refraining from assigning a different group identifier to the digital voice data, otherwise;...", as recited by Applicants' amended claim 68. Indeed, Kline states that the "PVT" of Kline '...keeps incrementing the sequence number at the same del\_T time increments, even during silence intervals." In other words, **there is not a time when the "PVT" does not increment the "sequence number"**, which the Office has identified as teaching Applicants' "group identifier". Therefore, Applicants respectfully submit that the portion of Kline at column 5, lines fails to teach or suggest at least the aspects of Applicants' amended claim 68 shown above.

With regard to claim 77, Applicants respectfully submit that claim 77 recites, in part, "...wherein the group identifier is a pseudo-random number." Applicants have shown above with respect to claims 38, 50, and 66 that Kline does not teach or suggest this feature. Therefore, Applicants respectfully submit that claim 77 is independently allowable, for at least the same reasons previously cited with respect to claims 38 and 66.

Based at least upon the above, Applicants believe that the Kline fails to teach or suggest each and every element of Applicants' claim 68, as required by M.P.E.P. §2131, and that amended independent claim 68 is allowable over Kline. Because claims 69-78 depend from allowable claim 68, Applicants believe that claims 69-78 are also allowable over Kline, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 68, 69, and 74-78 under 35 U.S.C. §102(e) be reconsidered and withdrawn.

With regard to amended independent claim 79, Applicants respectfully submit

that claim 79 has been amended to recite limitations similar to independent claim 68, and that claim 79 has been rejected for the same reasons citing many of the same portions of Kline. Therefore, Applicants respectfully submit that Kline fails to teach or suggest each and every element of Applicants' claim 79, as required by M.P.E.P. §2131, for at least the reasons set forth above. Applicants respectfully submit that Kline therefore fails to anticipate amended claim 79, and that amended claim 79 is allowable over Kline. Further, because claims 80-93 depend either directly or indirectly from claim 79, Applicants respectfully submit that claims 80-93 are also allowable over Kline, for at least the same reasons.

With regard to dependent claim 92, Applicants respectfully submit that claim 92 recites, in part, "...wherein the group identifier is a pseudo-random number." Applicants have shown above with respect to claims 38, 50, 66, and 77 that Kline does not teach or suggest this feature. Therefore, Applicants respectfully submit that claim 92 is independently allowable, for at least the same reasons previously cited with respect to claims 38 and 66. Accordingly, Applicants respectfully request that the rejection of claims 79-82, and 87-93 under 35 U.S.C. §102(e) be reconsidered and withdrawn.

## **II. The Proposed Combination Of Kline, Angle, And Trompower Does Not Render Claims 25-28, 43-45, 53-56, 70-73, And 83-86 Unpatentable**

Applicants respectfully submit that claims 25-28, 43-45, 53-56, 70-73, and 83-86 depend respectively, from independent claims 22, 40, 52, 68, and 79. Applicants believe that claims 22, 40, 52, 68, and 79 are allowable over the proposed combination of references, in that Angle and Trompower fail to overcome the shortcomings of Kline, set forth above. Because claims 22, 40, 52, 68, and 79 are allowable over the proposed combination of Kline, Angle, and Trompower, Applicants respectfully submit that claims 25-28, 43-45, 53-56, 70-73, and 83-86, that depend therefrom, are allowable as well, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 25-28, 43-45, 53-56, 70-73, and 83-86 under 35 U.S.C. §103(a) be reconsidered and withdrawn.



## Conclusion

The Office Action makes various statements regarding claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants believe that all of claims 22-93 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicant invites the Examiner to contact the undersigned at (312) 775-8000 for an interview.

An early Office Action on the merits and allowance of claims 22-93 is respectfully requested.

The Commissioner is hereby authorized to charge any fees required by this submission to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Dated: October 8, 2008

McAndrews, Held & Malloy, Ltd.  
500 West Madison Street  
34th Floor  
Chicago, Illinois 60661  
(312) 775-8000

By /Kevin E. Borg/  
Kevin E. Borg  
Reg. No. 51,486